

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
)
Amendment of Parts 1, 2, and)
21 of the Commission's Rules)
Governing Use of the Frequencies)
in the 2.1 and 2.5 GHz Bands)

Federal Communications Commission
Office of the Secretary

PR Docket No. 92-80
RM 7909

COMMENTS

ORIGINAL
FILE

Pursuant to Section 1.415(a) of the Federal Communications Commission ("FCC" or "Commission") Rules and Regulations, 47 C.F.R. §1.415(a), Pioneer Telephone Cooperative, Inc. ("PTC"), by its attorneys, submits its comments on the above-referenced Notice of Proposed Rulemaking ("Notice").^{1/} PTC addresses itself solely to the FCC's suggestion that pending Multichannel Distribution Service ("MDS") applications be filed anew, under a revised processing scheme.^{2/} PTC opposes such a proposal as unfair and unnecessarily burdensome to pending applicants.

1. Preliminarily, PTC commends the FCC for its efforts by this proceeding to facilitate the licensing of MDS systems. Such systems are highly valued in rural areas in particular, where landline cable is costly to construct and maintain. In order to

^{1/} Notice of Proposed Rulemaking, PR Docket No. 92-80/RM 7902, FCC 92-173, Mimeo No. 38378, released May 8, 1992 ("NPRM").

^{2/} "MDS" as used herein refers to multichannel as well as single channel wireless cable systems.

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accomplish its objective of a more streamlined licensing process for MDS, however, the Commission suggests a severe measure which, has a "throw the baby out with the bathwater" effect. It is that MDS applicants be required to refile their applications in a new filing window, along with other applicants who had not previously filed applications.^{3/} PTC, which has MDS applications pending, finds this an unfair and unnecessary remedy for the process's ills.

2. First, if pending applicants were required to refile, these applicants would be severely penalized for their efforts to date. Most importantly, pending applicants would, in an ex post facto fashion, lose their priority status. Applications filed pursuant to the same-day filing window, established as recently as last year, would lose that advantage.^{4/}

3. In addition to depriving applicants of their position in the application processing line, the suggested re-filing would also unfairly burden pending applicants by requiring them to expend additional resources to prosecute their applications. In all cases, this is likely to involve additional legal fees, additional application fees, and a new interference analysis. It

^{3/} NPRM, at 17-18 (para. 29)

^{4/} See, Revision of Part 21, Report and Order, Gen. Doc. Nos. 90-54, 80-113, 5 FCC Rcd 6410, 6424 (1990).

might also involve costly re-engineering of the proposed MDS system in many instances.

4. Furthermore, it is doubtful whether a refiling would have the desired effect of licensing serious wireless cable providers more expeditiously. For, the announcement of a new filing opportunity for MDS licenses is likely to be viewed as an invitation to license speculators to flood the Commission with applications. There is reason to be concerned that such a result would occur, based upon the Commission's experience in other services where it announced a filing window, e.g., 220 MHz land mobile and 900 MHz multiple address service applications in the Private Radio Service. In the MDS arena, the Commission's one-day filing window in September 1983 attracted thousands of applications. A good number of those applications were speculative; they delayed the licensing of viable wireless cable operators, and they lead to the serious backlog problem at hand.^{5/}

5. Thus, by reopening markets for application, markets for which serious wireless cable providers, such as PTC, have already applied, the Commission invites a similar flood of applications. This would only further exacerbate the application backlog

^{5/} NPRM at 4 (para. 5).

problem which the Commission seeks to remedy, and would needlessly delay the processing of MDS applications.

6. For the aforesaid reasons, the Commission should not require that pending MDS applications be re-filed in a new filing window and considered along with first-time applications.

Respectfully submitted,

PIONEER TELEPHONE COOPERATIVE, INC.

By: Marci E. Greenstein
David L. Nace
Marci E. Greenstein

Lukas, McGowan, Nace & Gutierrez, Chartered
1819 H Street, N.W., Seventh Floor
Washington, D.C. 20006

(202) 857-3500

June 29, 1992

CERTIFICATE OF SERVICE

I, Annetta Washington, a secretary in the law offices of Lukas, McGowan, Nace and Gutierrez, Chartered, hereby certify, that I have on this 29th day of June 1992, sent by hand delivery, a copy of the foregoing COMMENTS to the following:

Chairman Alfred C. Sikes
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

Commissioner James H. Quello
Federal Communications Commission
1919 M Street, N.W., Room 802
Washington, D.C. 20554

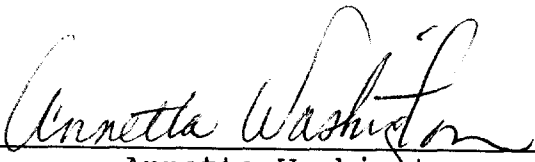
Commissioner Sherrie P. Marshall
Federal Communications Commission
1919 M Street, N.W., Room 826
Washington, D.C. 20554

Commissioner Andrew C. Barrett
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20554

Commissioner Ervin Duggan
Federal Communications Commission
1919 M Street, N.W., Room 832
Washington, D.C. 20554

Ralph A. Haller, Chief
Private Radio Bureau
Federal Communications Commission
2025 M Street, N.W., Room 5002
Washington, D.C. 20554

Rosalind K. Allen
Private Radio Bureau
Federal Communications Commission
2025 M Street, N.W., Room 5202
Washington, D.C. 20554



Annetta Washington